



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[LLCOS05000 L12200000.DU0000 18X]

Notice of Proposed Supplementary Rule for Travel Management on Public Lands in Montrose, Delta, San Miguel, and Ouray Counties, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing to establish a supplementary rule to make enforceable travel management decisions for mechanized vehicles in the Dry Creek Travel Management Plan (TMP) issued December 1, 2009; the Ridgway TMP issued May 10, 2013; and the Norwood-Burn Canyon TMP issued November 14, 2014. The proposed supplementary rule (proposed rule) would apply to public lands in Montrose, Delta, San Miguel, and Ouray counties, Colorado, administered by the BLM Uncompahgre Field Office.

DATES: Please send comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments postmarked or received in person or by electronic mail after this date may not be considered in the development of the final supplementary rule.

ADDRESSES: You may submit comments by one of the following methods: mail or hand deliver to Proposed Supplementary Rule, Attention: Caroline Kilbane, Outdoor Recreation Planner, BLM Uncompahgre Field Office, 2505 S. Townsend Ave., Montrose, CO 81401. You may also submit comments via email to ckilbane@blm.gov (include “Proposed Supplementary Rule” in the subject line).

FOR FURTHER INFORMATION CONTACT: Caroline Kilbane, Outdoor Recreation

Planner at (970) 240-5300 or by email at ckilbane@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the proposed rule should be specific, confined to issues pertinent to the proposed rule, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposed rule that the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the final supplementary rule, comments delivered to an address other than those listed earlier (See “**ADDRESSES**”) or comments that the BLM receives after the close of the comment period (See “**DATES**”), unless they are postmarked or electronically dated before the deadline.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the address specified in the **ADDRESSES** section above, during regular business hours (8 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Prior to 2009, the BLM Uncompahgre Field Office used the 1989 Uncompahgre

Basin Resource Management Plan (RMP) and the 1985 San Juan/San Miguel Resource Area RMP to manage travel on BLM-managed lands within the Dry Creek, Ridgway, and Norwood-Burn Canyon areas. In March 2007, the BLM published in the *Federal Register* a Notice of Intent to Amend the Uncompahgre Basin and San Juan/San Miguel RMPs and prepare the Dry Creek Comprehensive Travel Management Plan, Colorado (72 FR 10243). The RMP amendment, approved in June 2010, changed off-highway vehicle designations in identified areas from “Open or Limited” to “Limited to existing routes year-long or with seasonal restrictions” until further route-by-route planning could be completed. The BLM issued decision records for the Dry Creek TMP on December 1, 2009; the Ridgway TMP on May 13, 2013; and the Norwood-Burn Canyon TMP on November 14, 2014. The BLM approved the TMPs after multiple public comment opportunities and coordination with local government. On April 2, 2020, the BLM approved a revised Uncompahgre RMP that includes the Dry Creek, Ridgway, and Norwood-Burn Canyon travel management areas (TMAs) and brings forward from the TMPs the travel management decisions for these areas. This proposed rule would enable the BLM to implement and enforce several key decisions in the TMPs to protect natural resources, enhance public safety, and help improve habitat quality, big-game winter range, and migration corridors. The proposed rule would not affect other existing rules.

III. Discussion of Proposed Supplementary Rule

This proposed rule would apply to more than 121,000 acres of public land within the Dry Creek, Ridgway, and Norwood-Burn Canyon TMAs administered by the BLM Uncompahgre Field Office in Montrose, Delta, San Miguel, and Ouray counties, Colorado.

This proposed rule is necessary to make enforceable travel management decisions in the TMPs that restrict certain activities and define allowable uses intended to enhance

public safety, protect natural and cultural resources, eliminate non-motorized impacts on sensitive species habitat, and reduce conflicts among public land users.

The proposed rule would make enforceable restrictions limiting the operation of mechanized vehicles to designated travel routes identified in the TMPs, with the following exemptions: (1) big game hunters would be permitted to use mechanized game carts off designated travel routes outside of designated wilderness and wilderness study areas only when necessary to retrieve big game animals during authorized hunting seasons; (2) mechanized vehicles would be permitted to pull off designated travel routes up to one vehicle-width from the edge of a roadway to accommodate parking, dispersed camping, or general recreation; and (3) in the Dry Creek TMA, mechanized vehicles would be permitted to pull off within 300 feet of a designated travel route in a designated camping area identified by a BLM sign or map.

The proposed rule would make enforceable seasonal restrictions on travel in certain priority big game wintering habitats identified by the BLM Uncompahgre Field Office, in consultation with Colorado Parks and Wildlife, as the most important big game winter use areas within the TMAs. These seasonal restrictions would allow for human access during non-restricted periods while closing key areas during critical seasons to preserve the health of big game herds.

The proposed rule would make enforceable authorized dispersed camping in the Norwood-Burn Canyon and Dry Creek TMAs unless a BLM sign or map identifies an area as closed to such use, as well as authorized camping in designated campgrounds in the Dry Creek TMA identified by a BLM sign or map. The proposed rule would implement and make enforceable the closure of the Ridgway TMA to overnight use.

In the Ridgway TMA, the proposed rule would make enforceable the requirement that pets be leashed in the Uncompahgre Riverway Area and at all trailheads, as identified by BLM signs or maps, and under audible or physical control in all other areas.

In the Norwood-Burn Canyon TMA, the proposed rule would make enforceable the requirement that pets be leashed at trailheads, as identified by BLM signs or maps, and under audible or physical control in all other areas. In the Dry Creek TMA, the proposed rule would make enforceable the requirement that pets be under audible or physical control.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. The proposed rule would not have an effect of \$100 million or more on the economy. The proposed rule would not adversely affect in a material way the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal Governments or communities. The proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed rule would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients; nor does it raise novel legal or policy issues. The proposed rule would not affect legal commercial activity; it would merely impose limitations on certain recreational activities on certain public lands to protect natural resources and enhance public safety.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the proposed rule clearly stated?
- (2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

- (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
- (4) Would the proposed rule be easier to understand if it were divided into more (but shorter) sections?
- (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed rule? How could this description be more helpful in making the proposed rule easier to understand?

Please send any comments you have on the clarity of the proposed rule to one of the addresses specified in the **ADDRESSES** section.

National Environmental Policy Act

The proposed supplementary rule would implement key decisions in the TMPs. During the National Environmental Policy Act (NEPA) review for the TMPs, the BLM analyzed the substance of this proposed supplementary rule in three different environmental assessments (EAs): DOI-BLM-CO-SO50-2008-033 EA for the Dry Creek TMP (decision record signed December 1, 2009); DOI-BLM-CO-SO50-2011-0011 EA for the Ridgway TMP (decision record signed May 13, 2013); and DOI-BLM-CO-SO50-2012-019 EA for the Norwood-Burn Canyon TMP (decision record signed November 14, 2014). Electronic copies of the decision records for each TMP are on file at the BLM office at the address specified in the **ADDRESSES** section above. The BLM has completed a determination of NEPA adequacy (DOI-BLM-CO-SO50-2021-0045 DNA) to confirm that the analyses in the TMP EAs, and the associated public involvement procedures, as well as the Uncompahgre Field Office RMP, are sufficient to support this rulemaking.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed rule would have no effect on business entities of any size. The proposed rule would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

The proposed supplementary rule does not constitute a "major rule" as defined at 5 U.S.C. 804(2). The proposed rule would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. The proposed rule would not:

- (1) Have an annual effect on the economy of \$100 million or more;
- (2) Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local agencies; or geographic regions; or
- (3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

The proposed rule would not impose an unfunded mandate on State, local, or Tribal governments in the aggregate, or the private sector, of more than \$100 million per year; nor would it have a significant or unique effect on small governments. The

proposed rule would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The proposed rule does not constitute a government action capable of interfering with constitutionally protected property rights. The proposed rule would not address property rights in any form and would not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that the proposed rule would not cause a “taking” of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed rule would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that the proposed rule would not unduly burden the judicial system and that it meets the requirements of Sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that the proposed rule does not include policies that have Tribal implications and would have no bearing on trust lands or lands for which title is held in fee status by Indian Tribes or U.S. government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing the proposed rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule does not comprise a significant energy action. The proposed rule would not have an adverse effect on energy supply, production, or consumption and has no connection with energy policy.

Paperwork Reduction Act

The proposed rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 - 3521.

Author

The principal author of the proposed supplementary rule is Caroline Kilbane, Outdoor Recreation Planner, BLM, Uncompahgre Field Office.

V. Proposed Supplementary Rule

For the reasons stated in the preamble, and under the authorities for supplementary rules found at 43 U.S.C. 1740, and 43 CFR 8365.1-6, the BLM Colorado State Director proposes to establish a supplementary rule for BLM-managed public lands in the Dry Creek, Ridgway, and Norwood-Burn Canyon Travel Management Areas

located in Montrose, Delta, San Miguel, and Ouray counties, Colorado, to read as follows:

PROPOSED SUPPLEMENTARY RULE FOR DRY CREEK, RIDGWAY, AND BURN CANYON

Definitions

Camping means erecting a tent or a shelter of natural or synthetic materials; preparing a sleeping bag or other bedding material for use; or parking a motor vehicle, motor home, or trailer for the purpose or apparent purpose of overnight occupancy.

Designated travel routes means roads, primitive roads, and trails open or limited to specified modes of travel and identified on: (1) a BLM sign; or (2) a map of designated roads and trails that is maintained and available for public inspection at the BLM Uncompahgre Field Office, Colorado. Designated routes are open or limited to public use in accordance with any limits and restrictions as are specified in the Uncompahgre Resource Management Plan (RMP), the Dry Creek Travel Management Plan (TMP), the Ridgway TMP, the Norwood-Burn Canyon TMP, in future decisions implementing the RMP, or in this supplementary rule. Restrictions may include signs or physical barriers such as gates, fences, posts, branches, or rocks.

Mechanized vehicle means a vehicle using a mechanical device not powered by a motor, such as a bicycle.

Pet means any domesticated or tamed animal that is kept as a companion.

Prohibited Acts

Dry Creek Travel Management Area (TMA) Prohibited Acts

- (1) You must not operate or possess a mechanized vehicle except on designated travel routes, unless:

- (a) You are using a mechanized game cart for the purpose of retrieving a large game animal during authorized hunting seasons, outside of Congressionally designated wilderness areas and wilderness study areas;
 - (b) You are using a mechanized vehicle for the purpose of parking within one vehicle-width of the edge of a designated travel route for dispersed camping, where allowed, or general recreation; or
 - (c) You are using a mechanized vehicle in a designated camping area as designated by a BLM sign or map and are within 300 feet of the designated travel route.
- (2) You must not operate or possess a mechanized vehicle on specific routes that cross priority big game wintering habitat from December 1 to April 15 or December 1 to March 31, as designated by a BLM sign or map, except to access private inholdings with proper authorization.
- (3) Pets must be controlled by physical or audible means.

Ridgway TMA Prohibited Acts

You must not operate or possess a mechanized vehicle except on designated travel routes, unless you are using a mechanized game cart for the purpose of retrieving a large game animal during authorized hunting seasons.

- (1) All public access is prohibited in priority big game wintering habitat from December 1 to April 30, as designated by a BLM sign or map, except to access private inholdings with proper authorization and within the Uncompahgre Riverway Area.
- (2) Pets must remain on leashes within the Uncompahgre Riverway Area and at trailheads designated by a BLM sign or map. In all other areas, pets must be controlled by physical or audible means.
- (3) Overnight use is not allowed.

- (4) Mechanized vehicles must be parked within one vehicle-width of the edge of a designated travel route.

Norwood-Burn Canyon TMA Prohibited Acts

- (1) You must not operate or possess a mechanized vehicle except on designated travel routes, unless:
- (a) You are using a mechanized game cart for the purpose of retrieving a large game animal during authorized hunting seasons; or
 - (b) You are using a mechanized vehicle for the purpose of parking within one vehicle-width of the edge of a designated travel route for dispersed camping or general recreation.
- (2) You must not operate or possess a mechanized vehicle on any route that crosses priority big game wintering habitat from December 1 to April 30, as designated by a BLM sign or map, except to access private inholdings with proper authorization.
- (3) Dispersed camping is allowed unless closed by a BLM sign or map.
- (4) Pets must remain on leashes at trailheads designated by BLM signs or maps. In all other areas, pets must be controlled by physical or audible means.

Exemptions

Any Federal, state, local, or military persons acting within the scope of their official duties; members of an organized rescue or fire-fighting force performing an official duty; and persons who are expressly authorized or approved by the BLM.

Enforcement

Under Section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules on public lands within Colorado may be tried before a United States Magistrate and fined no more than \$1,000, imprisoned for no more than 12 months, or

both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Douglas Vilsack,

BLM Colorado State Director.

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